

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**CELESTE WILLIAMS, LAUREN CRUZ,
EMANUEL O'NEALE, BRANDON
STURMAN, LATRESHA HALL,
LAKEISHA MITCHELL, CHRISTINE
BORBELY, JULIE GARIBALDI and
JANINE APONTE, on behalf of themselves
and others similarly situated,**

INDEX NO: 07cv3978-LAP

Plaintiffs,

v.

**TWENTY ONES INCORPORATED d/b/a
THE 40/40 CLUB, SHAWN CARTER p/k/a
JAY-Z, JUAN PEREZ and DESIREE
GONZALES,**

Defendants.

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DECLARATION OF CELESTE WILLIAMS

I, Celeste Williams, under penalty of perjury, affirm as follows:

1. I am a New York resident and a named plaintiff in the above-captioned matter.
2. I submit this declaration based on personal knowledge unless indicated otherwise.
3. I was employed as a Server at The 40/40 Club sports bar located at 6 West 25th Street from approximately November 2005 through January 2006.
4. Throughout my employment at The 40/40 Club, I was not paid the minimum wage for each hour that I worked. Instead, I only received tips. Based on conversations with other employees of The 40/40 Club and what I witnessed, I know that

Exhibit C-10

it was the common practice of defendants to not pay its employees who received tips a minimum wage and/or hourly wage for any hours of work.

5. I never received a paycheck from The 40/40 Club during my employment. Therefore, I did not receive anything which reflected my hours of work, the wages I was supposed to receive, or any withholdings for taxes. Based on conversations with other employees of The 40/40 Club and what I witnessed, I know this was the common practice of defendants.

6. During my employment, I worked more than forty hours in a week. However, I was not paid time and a half for hours worked in excess of forty in a week. Based on conversations with other employees of The 40/40 Club and what I witnessed, I know it was the common practice of defendants to not pay its employees an overtime premium.

7. I also worked in excess of ten (10) hours per workday for defendants but I was never paid a "spread of hours" premium. I have personally witnessed other employees working shifts of more than ten (10) hours. Based on conversations with these employees, I know it was the common practice of defendants to not pay a "spread of hours" premium for workdays in excess of ten (10) hours.

8. I did not receive any payroll reports or pay checks during my employment at The 40/40 Club.

9. Throughout my employment at The 40/40 Club, I never received a W-2.

10. I believe that portions of my tips were retained by defendants. The 40/40 Club did not provide us with, or require us to fill out, any sort of tip declaration form. Because The 40/40 Club did not provide us with any records establishing the amount of

tips I should have received, I have no independent means of verifying these amounts.

However, based on the tips given to me by patrons and what was eventually paid to me by defendants, I believe that I did not receive all of my tips due.

11. If a patron of The 40/40 Club did not sign their credit card receipt, defendants retained the disputed tip for ninety (90) days. Defendants gave me a copy of this policy, which is attached as Exhibit A.

12. I was not paid any direct wage by The 40/40 Club. Because The 40/40 Club never paid me any direct wages, I was not paid the wages I was owed in a timely manner. Other employees have reported to me that they were not paid any direct wages by The 40/40 Club. Therefore, I know that it was the common practice of defendants to not pay its employees in a timely manner.

13. If a patron left The 40/40 Club without paying the bill, defendants would force its employees to pay the bill with his/her own money.

14. Similarly, The 40/40 Club forced employees to pay for breakages, spills, and the like.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 14th day of January, 2008.

A handwritten signature in cursive script, reading "Celeste Williams", written over a horizontal line.

Celeste Williams

EXHIBIT A

THE 40/40 CLUB POLICY AND PROCEDURE EMPLOYEE
UNDERSTANDING

NAME Celeste Williams
DATE 12-12-05

POSITION Server

I UNDERSTAND THE FOLLOWING POLICY'S,
THEY HAVE BEEN EXPLAINED. WRITTEN,
READ AND DISCUSSED AT VARIOUS
MEETING'S.

1. THERE IS A SIX STEP CREDIT CARD
PROCEDURE, IT IS POSTED AND IF NOT
FOLLOWED MAY CAUSE MY PAYMENT OF
THE FULL AMOUNT OF THE CHECK IN
QUESTION.
2. THERE IS ZERO TOLERANCE POLICY FOR
DRUG SALE OR USE BY AN EMPLOYEE OR
CUSTOMER. ALCOHOL USE BY AN
EMPLOYEE, SERVING TO MINORS OR
INTOXICATED PATRON'S. THERE ARE
PROCEDURES THAT I MUST FOLLOW IF
ANY OF THE ZERO TOLERANCE INCIDENTS
OCCUR.
3. I MUST BE FLUENT IN ALL MENU ITEMS.
4. I MUST ATTEND WEEKLY MEETINGS.